present rulings of our Supreme Court, which hold that a debt may be garnished wherever the garnishee may be served with process, that the procedure being quasi in rem, notice to the garnishment defendant by publication, or by notice from the garnishee is sufficient, and that even this notice by the garnishee is only rendered necessary by fairness, making the lack of it a sort of legal laches. It is conceivable under this doctrine that the garnishment defendant might have his debt condemned with no notice at all.[14]

If this be correct, a debt might be contracted between two citizens of California, and the debtor later being transiently in New York, might be served with garnishment attachment there. If the California obligor now brought his action in California after the debtor's return, and were to be postponed either by abatement or stay, the result would be to force him, under intolerable hardship, and with no fault on his part, not only to seek justice in a distant foreign court, but to submit to a jurisdiction to whose process he had never become subject. In such a case neither stay nor abatement would be consonant with the policy of our law.

The conclusion seems irresistible that abatement is not the proper pleading, and were it true that the garnishee is in all cases protected by satisfaction of either judgment, it would appear that the pendency of foreign garnishment should be given no weight whatever as a defense. The Supreme Court decisions that have permitted garnishment without personal service on the garnishment defendant have been severely criticized.[15] It has been doubted whether foreign courts would permit such a proceeding to stand as res judicata against the garnishment defendant.[16] Moreover, there have been cases where even under the present state of the decisions, the garnishee has not been protected by satisfaction of the garnishment.[17] These cases are rare, but they indicate that the garnishee is entitled to consideration where his interests are actually imperilled. It seems, therefore, that the rule should be that a stay of proceedings or execution should be granted in the sound discretion of the court, but only in those cases where the rights of the plaintiff permit and the interests of justice demand it.

H. S. J.

CONFLICT OF LAWS: INTERNATIONAL COMITY: JURISDICTION OF A NEUTRAL COURT OVER SUITS BETWEEN ENEMY CITIZENS.—A neutral nation is like a tight-rope walker—if it leans ever so little to one side, it is lost. A novel situation was presented in the case of *Watts, Watts & Company v. Unione Austriaca di Navigazione*,[1] which shows that the courts of a neutral nation have their part to

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[14] Harris v. Balk (1905), 198 U. S. 215, 49 L. Ed. 1023, 25 Sup. Ct. Rep. 625; Chicago etc. R. R. v. Sturm (1899), 174 U. S. 710, 43 L. Ed. 1144, 19 Sup. Ct. Rep. 797.

[15] 27 Harvard Law Review, 107.

[16] Mayor of London v. Cox (1890), 2 Eng. & I. App. 239.

[17] Ward v. Boyce (1897), 152 N. Y. 191, 46 N. E. 180, 36 L. R. A. 549.

[1] (May 20, 1915), 224 Fed. 188.

perform in maintaining this delicate balance. In that case a United States District Court was asked by an English corporation to enforce its contract with an Austrian corporation entered into prior to the war. Jurisdiction was obtained by an attachment of the defendant's steamer found in a United States port. Upon the ground that both Austria and England had forbidden their subjects to make any payment to enemy subjects during the war, the court dismissed the suit without prejudice. As it was only through comity that the court would ever take jurisdiction of suits between aliens, it would not exercise this jurisdiction in violation of the municipal law of the domicils of both parties and against the duty of neutral nations not to aid a belligerent.

Comity of nations has been defined as those rules of courtesy the benefit of which states sometimes accord to one another, though not bound to do so by the accepted international code.[2] It is clear that only by this comity will a court hear a suit between aliens, for no law, municipal or international, makes it obligatory.[3] In fact, France, for example, has long had a general rule against such jurisdiction, although the French courts have tried to make exceptions to it.[4] Of course, it is not their own comity which the courts thus exercise, but that of the nation—international comity.

Where courts take jurisdiction of suits between aliens, they will generally apply the foreign law which should govern the dispute, but this, likewise, is solely a matter of comity derived from the consent of the nation which is asked to take jurisdiction.[5] Naturally, comity is inadmissible when the result would be contrary to that nation's policy or prejudicial to its interests.

A nation which lives up to its duty as a neutral must not aid either belligerent directly or indirectly, even if this means the cessation of its accustomed course of action. This rule applies even where the aid could be given to both sides impartially. It is evident, then, that the neutral policy of the United States stood in the way of cognizance of a suit of the kind under consideration. In fact, international comity itself would prevent the exercise of a jurisdiction which that comity alone conferred. If, through comity, our courts will recognize and enforce rights accruing under foreign laws, why should they not, through comity, recognize and abide by the laws which suspend the remedy thereon, especially when those laws accord with the established custom of nations in time of war? Could a neutral, by granting what is not a matter of right but of comity, compel an alien to do what, but for the compulsion, would be a crime against his country? [6]

H. E. A.

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[2] Lawrence, Principles of International Law, 4th ed., p. 11.
[3] Story, Conflict of Laws, § 36.
[4] Pillet, Jurisdiction Over Foreigners, 18 Harvard Law Review, 325.
[5] Story, Conflict of Laws, § 38.
[6] The principal case is criticized by the Court of Chancery of New